

there could, likewise, be no indictment, for there is no one to indict. This is not the time nor place to discuss details with respect to the situation which have not yet come before you on the evidence. It may be that the State will show you that all three of these persons who have been arrested are guilty of this crime, or participation therein, which amounts to the same thing, or that only two of them are, or that only one of them is; all that must be left to the development of the case on the evidence. A few general instructions, however, may be appropriate at this time. The first is that any intentional, unlawful killing is presumably murder. The second is that in dealing with the matter of indictment, in case you find there should be an indictment, you are not concerned with the degrees of murder because the statute prescribes that the indictment should be for murder generally, leaving it to the trial jury to say whether such murder be of the first or second degree. The third is that in the commission of the crime of murder, there may be three classes of participants, according to the circumstances under which it was committed, and according to the manner in which they respectively participated. These three classes are principals in the first degree, principals in the second degree and accessories; and the accessories are subclassified into accessories before the fact and accessories after the fact. The important thing to bear in mind with regard to accessories in case of indictment is that if you find any party should be indicted as an accessory, it is necessary under the law that the indictment should be specially against such